



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,299	01/16/2002	Jorg Schottek	0732/990022	9021

23416 7590 04/23/2004

CONNOLLY BOVE LODGE & HUTZ, LLP  
P O BOX 2207  
WILMINGTON, DE 19899

EXAMINER
----------

LU, C CAIXIA

ART UNIT	PAPER NUMBER
----------	--------------

1713

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

<b>Office Action Summary</b>	<b>Application No.</b> 10/030,299	<b>Applicant(s)</b> SCHOTTEK ET AL.	
	<b>Examiner</b> Caixia Lu	<b>Art Unit</b> 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-26 is/are pending in the application.
- 4a) Of the above claim(s) 7-14, 17, 18, 20, 21 and 23-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15, 16, 19, 22 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/20/01&amp;03/12/02</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of Group III of claims 15-19 and 21-26 and species of bis(pentafluorophenyloxy)methylalane of Example 1 for component A) and metallocene compound for component B) in Response filed on March 11, 2004 is acknowledged. The traversal is on the ground(s) that there is unity of invention in that compound of formula I is common among the restricted groups. This is not found persuasive because compound of formula I such as the elected species bis(pentafluorophenyloxy)methylalane is known as shown in the rejection below, thus, does not contribute to the unity of invention as shown in the previous Restriction Requirement mailed on February 23, 2004.

The requirement is still deemed proper and is therefore made FINAL.

Currently, claims 15, 16, 19, 22 and 26 read on the elected group and species rather than claims 15-19 and 21-26 as indicated by applicants in the response to the restriction requirement.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

3. Claims 15, 16, 19, 22 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 6-329713.

In JP 6-329713, Example 2 teaches the preparation of bis(pentafluorophenyloxy)methylalane (II) from trimethylaluminum and

Art Unit: 1713

pentafluorophenol in one to 2 ratio, see [0042] in col. 15; ethylene polymerization was then conducted in the presence of bis(pentafluorophenyloxy)methylalane (II) and a titanium transition metal metallocene, see [0043]. Support such as silica is taught in [0030] of col. 11. The teaching of JP 6-329713 encompasses the instant claims.

4. Claims 15, 16, 19, 22 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohagane et al. (US 6,284,699).

Ohagane's Comparative Example 2 teaches the ethylene polymerization in the presence silica supported catalyst comprising bis(pentafluorophenyloxy)methylalane and ethylenebis(indenyl)zirconium dichloride (col. 18, line 64 to col. 19, line 52).

Ohagane's teaching reads on the instant claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.



Caixia Lu, Ph. D.  
Primary Examiner  
Art Unit 1713

4-19-04